

MADISON COUNTY PLANNING

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Streamside Protection Steering Committee Meeting Summary

Tuesday September 16, 2008

First Madison Valley Bank, Basement Meeting Room, Ennis, MT

Attendance:

Planning Staff: Jim Jarvis (staff planner), Karen Filipovich (facilitator)

Steering Committee: Kelly Galloup, Richard Lessner, Donna Jones, Gayle Schabarker, Pat Clancy, Chris Murphy, Amy Robinson, Bill Mercer, Jeff Laszlo (absent).

Public (29):

Tom Hobson
Ralph Hamler
Eileen Walters
Laird Stabler
Tricia Stabler
Lorraine Snipper
Dennis Hourany
Susan Hourany
Sam Johnson
John East
Carol East
Dave Arterburn
Greg Morgan
John Scully
Dennis Aigner

Janice Carmody
Catherine Ellerton
Jim Ellerton
Duane Thexton
Bernice Fisher
Addie Fisher
Shirley Fisher
Edgar Fisher
David Wing
Jerry Wing
David Bricker
Sheri Jarvis
Pat Goggins
Jim Hart

1. Welcome, Overview, and Introduction

The meeting was called to order at 6:30 p.m. by Karen Filipovich. Karen presented an overview of the agenda. Introductions were exchanged amongst committee members and the public.

2. Receive August 21, 2008 meeting summary and correspondence submitted since August 21, 2008 meeting

Jim Jarvis directed the committee's attention to a summary of the last meeting, copies of public comments received by the Planning Office since August 21, 2008, and two handouts prepared by the planning staff. The first handout summarized additional information on the number of potentially impacted lots within the proposed planning area. The second handout provided an overview of performance-based setback programs from several different states. Jim also commented that the commissioners asked the committee to consider different locations within the planning area, e.g. Harrison, to facilitate and encourage full public involvement. Jim also informed the committee that Bill Mercer has submitted a letter of resignation from the committee due to pressing personal and business matters. In his parting message he suggested the committee focus on preservation of a minimum vegetation buffer. Jim asked for committee suggestions for a replacement and reminded them of alternates John East and John Theide. Committee members

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asked that John Theide be contacted to ascertain his interest. In the interim John East, who was in attendance, was asked to sit in with the committee as the attending alternate.

3. Further Information on Impacted Lots

As a supplement to information presented at the last SC meeting, Jim presented estimates of the number of developed versus undeveloped lots, along with their size and associated subdivisions, within the planning area, using three scenarios.

Madison River Corridor (main stem from Quake Lake downstream to the county line)

Approximately 50% of the private parcels along the Madison River have been developed versus 30% elsewhere in the county.

Of the total of 246 private parcels along the Madison River, less than 10% are greater than 160 acres in size, versus 20-30% elsewhere in the county.

Planning Area Outside of the Madison River Corridor

Development patterns similar to the rest of the county

Countywide (per 2001 Madison County Build Out Study)

9,911 privately owned parcels In Madison County (920,000 acres)

3,057 parcels (31%) are improved

6,541 parcels (68.4%) are undeveloped

The most prominent parcel size is in excess of 160 acres.

Compared to the county overall, property along the Madison River has developed at a faster rate, i.e. lots are generally smaller (subdivided < 160 acres) with more existing buildings.

Approximately 20 subdivisions exist along the Madison River; most were created prior to 1993 with no setback restrictions. Two of these older subdivisions, Sundance Bench and Uline Bench, included common areas along sections of the river corresponding to flood prone areas. These no-build zones are controlled by homeowners associations. In recent years several minor subdivisions, splitting larger parcels into smaller lots, have been created from older subdivision lots. Where applicable, setback restrictions apply to these minor subdivisions.

Committee member comments/questions:

- What is the size of existing common areas (buffer zones) in applicable subdivisions.
Estimated from 100-1000 feet
- How are lots greater than 160 acres further divided outside of subdivision review.
Jim explained how the remainder doctrine applies to splitting larger lots

Lorraine Snipper presented the results of her research identifying private parcels along the Madison River (Quake to Ennis lake), including 83 vacant, 87 developed, 37 agricultural tracts within 500 feet of the river (total 207 parcels), not including commercial lots, properties across the highway rights-of-way or those below Ennis Lake. Her data, including color-coordinated maps, is available for review by interested parties

4. Sanitarian Presentation on Septic Permit and Floodplain Programs

Ralph Hamler (county sanitarian) described the purpose and function of the county's septic permit and floodplain management programs that he has administered for the past 18 years. Ralph explained how these programs aid in the protection of water quality of rivers and streams. Ralph explained that the placement of septic systems and the impacts of stormwater runoff are regulated and supported by existing state and federal regulations, including the MT DEQ, DNRC, and EPA. Since 2000, the number of septic permits issued countywide ranged from 120-195 annually, with a high of 195 in 2004. In addition, Ralph commented on how construction within the floodplain was regulated. Under certain circumstances, buildings could be constructed in the floodplain, but septic systems were not allowed within 100 feet of the floodplain boundary. In general, Ralph stated that the 100 foot setback and the non-degradation standards for septic systems were adequate to protect rivers and streams from contaminants generated by nearby residences. Ralph suggested that additional protection through building setbacks should be accomplished through citizen-initiated zoning regulations and such a program would likely result in an increase in property taxes. Ralph proposed that the low density of development along the Madison River and existing subdivision and sanitation regulations effectively minimize the potential of development-related water quality impacts in this area.

5. Summary of Various Performance-based (PB) Setback Programs

Jim presented the following summary of various performance-based streamside protection programs in Montana, Washington, and Colorado.

Typical definition of PB Setback Regulations: Site-specific restrictions allowing flexibility for development while maintaining the integrity of significant riparian resources.

Typical purpose statement: Prohibit construction in close proximity to riparian habitat which has been determined by the governing body to be unsuitable for development by reason of:

- ✓ floodplain stability
- ✓ surface and subsurface water quality protection
- ✓ aquatic and terrestrial habitat protection.

Jim identified common characteristics of the programs, specifically:

- Identify and delineate riparian resources of concern
- Document character-defining features of these riparian resources worthy of protection
- Formalize protection of these features through land-use regulations
- Require submission of a "Management Plan" showing property owner's efforts to mitigate negative impacts
 - Site Map
 - Mitigation Plan
- Review plan and conduct site inspection
- Negotiate acceptable outcomes, "no net loss" of riparian resource
- Final decision made at administrative level, i.e. planning director

Typical Programs:

- Fixed vegetative buffer zone (Do not disturb native vegetation and reestablish damaged vegetation)
Setback: 50-100 feet from Ordinary Highwater Mark or wetland boundary
PLUS

- Variable construction setback zone (No major construction activity allowed)
Setback: 0-200 feet from buffer zone boundary, site-specific based on conditions

Committee member questions/comments

- Does the County have the resources to administer a performance-based program
Ralph suggested a building inspector is needed in the County and such a program could be paid for by application fees.
- Kelly Galloup expressed support for the education and incentives options (d & e) mentioned in the performance-based summary.

Karen asked what additional information is needed for the next meeting:

P. Clancy suggested we continue to explore education and incentive options in addition to regulations and the discussion should go beyond just the Madison River.

R. Lessner stated his priority is protection of riparian habitat, followed by water quality and that the tributaries need to be better addressed. Surface water runoff, including stormwater was still a concern. He felt Ralph Hamler had made a good case that septic protections were adequate to protect water quality.

G. Schabarker and A. Robinson echoed these same comments with an emphasis on riparian habitat protection

K. Galloup supported education, not regulation.

D. Jones expressed support for the performance based concept and stressed that it was important that everyone be treated fairly.

C. Murphy expressed support for protecting a vegetative buffer along the rivers and streams, and asked whether there are ways to address the impacts of agricultural activities, i.e. grazing along rivers and streams. Additional flood information is needed for other rivers, i.e. Jefferson River and tributaries. Implementation of BMPs for stormwater control is important. Whatever regulatory process may emerge it should be kept simple and allow for timely review and decision-making

J. East supported public education to encourage compliance and that a minimal vegetative buffer is appropriate.

6. Furthering Public Participation

Karen asked for input from the committee relating to way to improve public participation and sharing of information. The SC suggested:

- Send tax bill mailer describing on-going streamside protection efforts
- Send at least one property owner mailing as the ordinance takes shape
- General information articles in local newspapers
- Indicate on agenda when specific areas within the planning area are going to be discussed
- Steering committee member outreach to the public
- Informational flyers around the community, i.e. popular gathering spots
- Moving SC meetings to other locations in the planning area
- Hold Planning Board workshops around the planning area

7. Public Comment Period

Pat Goggins asked the committee to recognize that while cattle grazing activities can have an impact on rivers and streams in many cases wildlife, such as deer, is more of a problem. He suggested that on occasion he has more deer than cows on his property.

Janice Carmody stated her family has owned their Antelope Creek property for many generations and that the streams have not changed much, and that she has also experienced the impacts of deer. She also asked that if possible the committee should consider moving the planning area boundary a little further east and exclude her property as well.

Greg Morgan inquired why the committee is going through this process if there isn't a clear need. "This much to do about nothing".. He suggested that the committee has only indicated clear agreement on preserving a minimum 50 foot vegetative buffer.

Another member of the public cautioned the committee to not fixate on 50 feet as the information compiled by the Audubon Society suggested a larger buffer may be needed in some circumstances.

Tom Hobson, suggested that if older septic systems can fail and create water quality problems, then perhaps the older systems should be actively inspected and regulated.

Next Meeting Agenda Comments

Karen asked the committee whether they would like to hear at their next meeting a presentation on "takings" from a Montana Department of Commerce staff attorney. In general, committee members expressed concern that out of fairness more than one attorney's opinion should be given at the presentation. Proposal on hold until an additional attorney can be identified.

The committee wished to hold off on changing the meeting location until a later date.

Meeting adjourned: 9:07pm

The next committee meeting is scheduled for Tuesday October 21, 2008 at 6:30 p.m. in Ennis.